

(B) to refrain from targeting, on the basis of information collected from Internet monitoring, any individual who visits websites related to politics or human rights or who expresses opinions related to politics or human rights in electronic communication;

(2) expresses grave concern regarding the deterioration of respect for human rights in the People's Republic of China leading up to the Beijing Olympics;

(3) notes that the behavior of the Government of the People's Republic of China violates several international conventions to which the country is a signatory, violates the Government's commitments to the International Olympic Committee, and is contrary to longstanding Olympic tradition and spirit; and

(4) remains concerned for the safety and privacy of international visitors and journalists traveling to the People's Republic of China for the Beijing Olympics, in particular visitors and journalists involved in documenting human rights abuses and promoting human rights improvements.

SENATE RESOLUTION 634—RECOGNIZING JULY 30, 2008, AS THE 40TH ANNIVERSARY OF THE ENACTMENT OF THE RESOLUTION ESTABLISHING THE SENATE SELECT COMMITTEE ON NUTRITION AND HUMAN NEEDS

Mr. CASEY (for himself, Mr. CHAMBLISS, Mr. HARKIN, Mr. KERRY, Mr. SANDERS, Mrs. LINCOLN, Ms. STABENOW, Mr. ROBERTS, Mrs. DOLE, Mr. PRYOR, Mr. SMITH, Mr. JOHNSON, Mrs. CLINTON, and Mr. FEINGOLD) submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. RES. 634

Whereas on April 26, 1968, after viewing the CBS Emmy-award winning documentary "Hunger in America," Senator George McGovern introduced a resolution to establish a Senate Select Committee on Nutrition and Human Needs;

Whereas the resolution establishing the Select Committee on Nutrition and Human Needs was enacted on July 30, 1968;

Whereas Senator George McGovern served as the Chairman of the Select Committee on Nutrition and Human Needs from 1968 to 1977;

Whereas July 30, 2008, marks the 40th anniversary of the enactment of the resolution establishing the Select Committee on Nutrition and Human Needs, which later became the foundation of the current Subcommittee on Nutrition and Food Assistance, Sustainable and Organic Agriculture, and General Legislation Jurisdiction of the Senate Committee on Agriculture, Nutrition, and Forestry;

Whereas Senator George McGovern was committed to exposing the failure of Federal food assistance programs to reach citizens lacking in adequate quantities and quality of food;

Whereas Senators George McGovern and Robert Dole worked tirelessly in their respective roles on the Select Committee on Nutrition and Human Needs to develop a bipartisan Federal response to hunger;

Whereas the Select Committee on Nutrition and Human Needs played a key role in educating Congress, the Federal government, and the Nation at large about the magnitude of hunger in the United States;

Whereas the work of the Select Committee on Nutrition and Human Needs was vital to reforming the Federal food stamp program,

culminating in the passage of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), which made the program more efficient and more accessible to those most in need by finally eliminating the requirement that Americans pay for a portion of their food stamps;

Whereas the work of the Select Committee on Nutrition and Human Needs was essential to expanding the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.) and permanently establishing the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), the child and adult care food program under section 17 of the National School Lunch Act (42 U.S.C. 1766), and the summer food service program for children under section 13 of that Act (42 U.S.C. 1761);

Whereas the work of the Select Committee on Nutrition and Human Needs was instrumental in the establishment of the special supplemental nutrition program for women, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) (WIC);

Whereas the Senate Committee on Agriculture, Nutrition, and Forestry remains committed to continuing the important work begun by Senators George McGovern and Robert Dole of providing a Federal response to hunger;

Whereas the Senate Committee on Agriculture, Nutrition, and Forestry provided a record-level amount of nutrition funding in the Food, Conservation, and Energy Act of 2008 (Public Law 110-246; 122 Stat. 1651) to reform and strengthen Federal nutrition assistance programs;

Whereas, through the Food, Conservation, and Energy Act of 2008 (Public Law 110-246; 122 Stat. 1651), the Senate Committee on Agriculture, Nutrition, and Forestry made key improvements to the food stamp program, including—

(1) increasing the food purchasing ability of low-income households by accounting for food cost inflation;

(2) increasing the minimum benefit;

(3) encouraging retirement and education savings; and

(4) allowing families to account for child care costs in calculating food assistance;

Whereas, through the Food, Conservation, and Energy Act of 2008 (Public Law 110-246; 122 Stat. 1651), the Senate Committee on Agriculture, Nutrition, and Forestry helped to strengthen the domestic food assistance safety net by providing significant funding to increase commodity purchases for local area food banks;

Whereas, in 2008, more than 28,000,000 people in the United States participate in the food stamp program;

Whereas, in 2008, more than 17,500,000 low-income children receive free or reduced-price meals through the national school lunch program;

Whereas despite Federal food assistance programs, 35,500,000 people in the United States, including 12,600,000 children, continue to live in households considered to be food insecure;

Whereas children who live in households lacking access to sufficient food are more likely to be in poorer physical health than children from food secure households; and

Whereas children are particularly vulnerable to the effects of food insecurity because undernutrition can have adverse impacts on emotional health, behavior, school performance, and cognitive development: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes July 30, 2008, as the 40th anniversary of the enactment of the resolution

establishing the Senate Select Committee on Nutrition and Human Needs;

(2) recognizes the substantial contributions the Select Committee on Nutrition and Human Needs made in ensuring that effective and efficient Federal food assistance programs were accessible to those most in need;

(3) recognizes that hunger continues to be an issue plaguing the United States; and

(4) supports the continued efforts of Federal, State, and local governments and private non-profit organizations to eradicate hunger in the United States.

SENATE RESOLUTION 635—MAKING MINORITY PARTY APPOINTMENTS FOR THE 110TH CONGRESS

Mr. McCONNELL submitted the following resolution; which was considered and agreed to:

S. RES. 635

Resolved, That the following be the minority membership on the following committee for the remainder of the 110th Congress, or until their successors are appointed:

Committee on Commerce, Science and Transportation: Mrs. Hutchison, Mr. Stevens, Mr. McCain, Ms. Snowe, Mr. Smith, Mr. Ensign, Mr. Sununu, Mr. DeMint, Mr. Vitter, Mr. Thune, Mr. Wicker.

AMENDMENTS SUBMITTED AND PROPOSED

SA 5254. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 3322, to provide tax relief for the victims of severe storms, tornados, and flooding in the Midwest, and for other purposes; which was referred to the Committee on Finance.

SA 5255. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 3335, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table.

SA 5256. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 3186, to provide funding for the Low-Income Home Energy Assistance Program; which was ordered to lie on the table.

SA 5257. Mr. PRYOR (for Mr. LEAHY) proposed an amendment to the bill H.R. 5938, to amend title 18, United States Code, to provide secret service protection to former Vice Presidents, and for other purposes.

TEXT OF AMENDMENTS

SA 5254. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 3322, to provide tax relief for the victims of severe storms, tornados, and flooding in the Midwest, and for other purposes; which was referred to the Committee on Finance; as follows:

On page 15, line 11, insert "or by any instrumentality of the State" after "located".

SA 5255. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 3335, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 3. OPEN FUEL STANDARDS.

(a) **SHORT TITLE.**—This section may be cited as the “Open Fuel Standard Act of 2008” or the “OFS Act”.

(b) **FINDINGS.**—Congress makes the following findings:

(1) The status of oil as a strategic commodity, which derives from its domination of the transportation sector, presents a clear and present danger to the United States.

(2) In a prior era, when salt was a strategic commodity, salt mines conferred national power and wars were fought over the control of such mines.

(3) Technology, in the form of electricity and refrigeration, decisively ended salt's monopoly of meat preservation and greatly reduced its strategic importance.

(4) Fuel competition and consumer choice would similarly serve to end oil's monopoly in the transportation sector and strip oil of its strategic status.

(5) The current closed fuel market has allowed a cartel of petroleum exporting countries to inflate fuel prices, effectively imposing a harmful tax on the economy of the United States of nearly \$500,000,000,000 per year.

(6) Much of the inflated petroleum revenues the oil cartel earns at the expense of the people of the United States are used for purposes antithetical to the interests of the United States and its allies.

(7) Alcohol fuels, including ethanol and methanol, could potentially provide significant supplies of additional fuels that could be produced in the United States and in many other countries in the Western Hemisphere that are friendly to the United States.

(8) Alcohol fuels can only play a major role in securing the energy independence of the United States if a substantial portion of vehicles in the United States are capable of operating on such fuels.

(9) It is not in the best interest of United States consumers or the United States Government to be constrained to depend solely upon petroleum resources for vehicle fuels if alcohol fuels are potentially available.

(10) Existing technology, in the form of flexible fuel vehicles, allows internal combustion engine cars and trucks to be produced at little or no additional cost, which are capable of operating on conventional gasoline, alcohol fuels, or any combination of such fuels, as availability or cost advantage dictates, providing a platform on which fuels can compete.

(11) The necessary distribution system for such alcohol fuels will not be developed in the United States until a substantial fraction of the vehicles in the United States are capable of operating on such fuels.

(12) The establishment of such a vehicle fleet and distribution system would provide a large market that would mobilize private resources to substantially advance the technology and expand the production of alcohol fuels in the United States and abroad.

(13) The United States has an urgent national security interest to develop alcohol fuels technology, production, and distribution systems as rapidly as possible.

(14) New cars sold in the United States that are equipped with an internal combustion engine should allow for fuel competition by being flexible fuel vehicles, and new diesel cars should be capable of operating on biodiesel.

(15) Such an open fuel standard would help to protect the United States economy from high and volatile oil prices and from the threats caused by global instability, terrorism, and natural disaster.

(c) **OPEN FUEL STANDARD FOR TRANSPORTATION.**—

(1) **IN GENERAL.**—Chapter 329 of title 49, United States Code, is amended by adding at the end the following:

“§ 32920. Open fuel standard for transportation

“(a) **DEFINITIONS.**—In this section:

“(1) **E85.**—The term ‘E85’ means a fuel mixture containing 85 percent ethanol and 15 percent gasoline by volume.

“(2) **FLEXIBLE FUEL AUTOMOBILE.**—The term ‘flexible fuel automobile’ means an automobile that has been warranted by its manufacturer to operate on gasoline, E85, and M85.

“(3) **FUEL CHOICE-ENABLING AUTOMOBILE.**—The term ‘fuel choice-enabling automobile’ means—

“(A) a flexible fuel automobile; or

“(B) an automobile that has been warranted by its manufacturer to operate on biodiesel.

“(4) **LIGHT-DUTY AUTOMOBILE.**—The term ‘light-duty automobile’ means—

“(A) a passenger automobile; or

“(B) a non-passenger automobile.

“(5) **LIGHT-DUTY AUTOMOBILE MANUFACTURER'S ANNUAL INVENTORY.**—The term ‘light-duty automobile manufacturer's annual inventory’ means the number of light-duty automobiles that a manufacturer, during a given calendar year, manufactures in the United States or imports from outside of the United States for sale in the United States.

“(6) **M85.**—The term ‘M85’ means a fuel mixture containing 85 percent methanol and 15 percent gasoline by volume.

“(7) **SECRETARY.**—The term ‘Secretary’ means the Secretary of Transportation.

“(b) **OPEN FUEL STANDARD FOR TRANSPORTATION.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), each light-duty automobile manufacturer's annual inventory shall be comprised of not less than 50 percent fuel choice-enabling automobiles in 2012.

“(2) **TEMPORARY EXEMPTION FROM REQUIREMENTS.**—

“(A) **APPLICATION.**—A manufacturer may request an exemption from the requirement described in paragraph (1) by submitting an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require by regulation. Each such application shall specify the models, lines, and types of automobiles affected.

“(B) **EVALUATION.**—After evaluating an application received from a manufacturer, the Secretary may at any time, under such terms and conditions, and to such extent as the Secretary considers appropriate, temporarily exempt, or renew the exemption of, a light-duty automobile from the requirement described in paragraph (1) if the Secretary determines that unavoidable events not under the control of the manufacturer prevent the manufacturer of such automobile from meeting its required production volume of fuel choice-enabling automobiles due to a disruption in—

“(i) the supply of any component required for compliance with the regulations; or

“(ii) the use and installation by the manufacturer of such component.

“(C) **CONSOLIDATION.**—The Secretary may consolidate applications received from multiple manufacturers under subparagraph (A) if they are of a similar nature.

“(D) **CONDITIONS.**—Any exemption granted under subparagraph (B) shall be conditioned upon the manufacturer's commitment to recall the exempted automobiles for installation of the omitted components within a reasonable time proposed by the manufacturer

and approved by the Secretary after such components become available in sufficient quantities to satisfy both anticipated production and recall volume requirements.

“(E) **NOTICE.**—The Secretary shall publish in the Federal Register—

“(i) notice of each application received from a manufacturer;

“(ii) notice of each decision to grant or deny a temporary exemption; and

“(iii) the reasons for granting or denying such exemptions.

“(F) **LABELING.**—Each manufacturer that receives an exemption under this paragraph shall place a label on each exempted automobile. Such label—

“(i) shall comply with the regulations prescribed by the Secretary under paragraph (3); and

“(ii) may only be removed after recall and installation of the required components.

“(G) **NOTICE OF EXEMPTION.**—Each light-duty automobile delivered to dealers and first purchasers that is not a fuel choice-enabling automobile and for which the manufacturer received an exemption under this paragraph, shall be accompanied with a written notification of such exemption, which complies with the regulations prescribed by the Secretary under paragraph (3).

“(3) **RULEMAKING.**—Not later than 1 year after the date of enactment of this section, the Secretary shall promulgate regulations to carry out this section.”.

(2) **CLERICAL AMENDMENT.**—The table of sections for chapter 329 of title 49, United States Code, is amended by adding at the end the following:

“32920. Open fuel standard for transportation.”.

SA 5256. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 3186, to provide funding for the Low-Income Home Energy Assistance Program; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

SEC. 3. OPEN FUEL STANDARDS.

(a) **SHORT TITLE.**—This section may be cited as the “Open Fuel Standard Act of 2008” or the “OFS Act”.

(b) **FINDINGS.**—Congress makes the following findings:

(1) The status of oil as a strategic commodity, which derives from its domination of the transportation sector, presents a clear and present danger to the United States.

(2) In a prior era, when salt was a strategic commodity, salt mines conferred national power and wars were fought over the control of such mines.

(3) Technology, in the form of electricity and refrigeration, decisively ended salt's monopoly of meat preservation and greatly reduced its strategic importance.

(4) Fuel competition and consumer choice would similarly serve to end oil's monopoly in the transportation sector and strip oil of its strategic status.

(5) The current closed fuel market has allowed a cartel of petroleum exporting countries to inflate fuel prices, effectively imposing a harmful tax on the economy of the United States of nearly \$500,000,000,000 per year.

(6) Much of the inflated petroleum revenues the oil cartel earns at the expense of the people of the United States are used for purposes antithetical to the interests of the United States and its allies.

(7) Alcohol fuels, including ethanol and methanol, could potentially provide significant supplies of additional fuels that could be produced in the United States and in

many other countries in the Western Hemisphere that are friendly to the United States.

(8) Alcohol fuels can only play a major role in securing the energy independence of the United States if a substantial portion of vehicles in the United States are capable of operating on such fuels.

(9) It is not in the best interest of United States consumers or the United States Government to be constrained to depend solely upon petroleum resources for vehicle fuels if alcohol fuels are potentially available.

(10) Existing technology, in the form of flexible fuel vehicles, allows internal combustion engine cars and trucks to be produced at little or no additional cost, which are capable of operating on conventional gasoline, alcohol fuels, or any combination of such fuels, as availability or cost advantage dictates, providing a platform on which fuels can compete.

(11) The necessary distribution system for such alcohol fuels will not be developed in the United States until a substantial fraction of the vehicles in the United States are capable of operating on such fuels.

(12) The establishment of such a vehicle fleet and distribution system would provide a large market that would mobilize private resources to substantially advance the technology and expand the production of alcohol fuels in the United States and abroad.

(13) The United States has an urgent national security interest to develop alcohol fuels technology, production, and distribution systems as rapidly as possible.

(14) New cars sold in the United States that are equipped with an internal combustion engine should allow for fuel competition by being flexible fuel vehicles, and new diesel cars should be capable of operating on biodiesel.

(15) Such an open fuel standard would help to protect the United States economy from high and volatile oil prices and from the threats caused by global instability, terrorism, and natural disaster.

(c) OPEN FUEL STANDARD FOR TRANSPORTATION.—

(1) IN GENERAL.—Chapter 329 of title 49, United States Code, is amended by adding at the end the following:

“§32920. Open fuel standard for transportation

“(a) DEFINITIONS.—In this section:

“(1) E85.—The term ‘E85’ means a fuel mixture containing 85 percent ethanol and 15 percent gasoline by volume.

“(2) FLEXIBLE FUEL AUTOMOBILE.—The term ‘flexible fuel automobile’ means an automobile that has been warranted by its manufacturer to operate on gasoline, E85, and M85.

“(3) FUEL CHOICE-ENABLING AUTOMOBILE.—The term ‘fuel choice-enabling automobile’ means—

“(A) a flexible fuel automobile; or

“(B) an automobile that has been warranted by its manufacturer to operate on biodiesel.

“(4) LIGHT-DUTY AUTOMOBILE.—The term ‘light-duty automobile’ means—

“(A) a passenger automobile; or

“(B) a non-passenger automobile.

“(5) LIGHT-DUTY AUTOMOBILE MANUFACTURER’S ANNUAL INVENTORY.—The term ‘light-duty automobile manufacturer’s annual inventory’ means the number of light-duty automobiles that a manufacturer, during a given calendar year, manufactures in the United States or imports from outside of the United States for sale in the United States.

“(6) M85.—The term ‘M85’ means a fuel mixture containing 85 percent methanol and 15 percent gasoline by volume.

“(7) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.

“(b) OPEN FUEL STANDARD FOR TRANSPORTATION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), each light-duty automobile manufacturer’s annual inventory shall be comprised of not less than 50 percent fuel choice-enabling automobiles in 2012.

“(2) TEMPORARY EXEMPTION FROM REQUIREMENTS.—

“(A) APPLICATION.—A manufacturer may request an exemption from the requirement described in paragraph (1) by submitting an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require by regulation. Each such application shall specify the models, lines, and types of automobiles affected.

“(B) EVALUATION.—After evaluating an application received from a manufacturer, the Secretary may at any time, under such terms and conditions, and to such extent as the Secretary considers appropriate, temporarily exempt, or renew the exemption of, a light-duty automobile from the requirement described in paragraph (1) if the Secretary determines that unavoidable events not under the control of the manufacturer prevent the manufacturer of such automobile from meeting its required production volume of fuel choice-enabling automobiles due to a disruption in—

“(i) the supply of any component required for compliance with the regulations; or

“(ii) the use and installation by the manufacturer of such component.

“(C) CONSOLIDATION.—The Secretary may consolidate applications received from multiple manufacturers under subparagraph (A) if they are of a similar nature.

“(D) CONDITIONS.—Any exemption granted under subparagraph (B) shall be conditioned upon the manufacturer’s commitment to recall the exempted automobiles for installation of the omitted components within a reasonable time proposed by the manufacturer and approved by the Secretary after such components become available in sufficient quantities to satisfy both anticipated production and recall volume requirements.

“(E) NOTICE.—The Secretary shall publish in the Federal Register—

“(i) notice of each application received from a manufacturer;

“(ii) notice of each decision to grant or deny a temporary exemption; and

“(iii) the reasons for granting or denying such exemptions.

“(F) LABELING.—Each manufacturer that receives an exemption under this paragraph shall place a label on each exempted automobile. Such label—

“(i) shall comply with the regulations prescribed by the Secretary under paragraph (3); and

“(ii) may only be removed after recall and installation of the required components.

“(G) NOTICE OF EXEMPTION.—Each light-duty automobile delivered to dealers and first purchasers that is not a fuel choice-enabling automobile and for which the manufacturer received an exemption under this paragraph, shall be accompanied with a written notification of such exemption, which complies with the regulations prescribed by the Secretary under paragraph (3).

“(3) RULEMAKING.—Not later than 1 year after the date of enactment of this section, the Secretary shall promulgate regulations to carry out this section.”.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 329 of title 49, United States Code, is amended by adding at the end the following:

“32920. Open fuel standard for transportation.”.

SA 5257. Mr. PRYOR (for Mr. LEAHY) proposed an amendment to the bill H.R. 5938, to amend title 18, United States Code, to provide secret service protection to former Vice Presidents, and for other purposes; as follows:

On page 2, strike lines 1 through 5, and insert the following:

TITLE I—FORMER VICE PRESIDENT PROTECTION ACT

SEC. 101. SHORT TITLE.

This title may be cited as the “Former Vice President Protection Act of 2008”.

SEC. 102. SECRET SERVICE PROTECTION FOR FORMER VICE PRESIDENTS AND THEIR FAMILIES.

On page 3, strike line 1 and insert the following:

SEC. 103. EFFECTIVE DATE.

On page 3, after line 4, insert the following:

TITLE II—IDENTITY THEFT ENFORCEMENT AND RESTITUTION ACT

SEC. 201. SHORT TITLE.

This title may be cited as the “Identity Theft Enforcement and Restitution Act of 2008”.

SEC. 202. CRIMINAL RESTITUTION.

Section 3663(b) of title 18, United States Code, is amended—

(1) in paragraph (4), by striking “; and” and inserting a semicolon;

(2) in paragraph (5), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(6) in the case of an offense under sections 1028(a)(7) or 1028A(a) of this title, pay an amount equal to the value of the time reasonably spent by the victim in an attempt to remediate the intended or actual harm incurred by the victim from the offense.”.

SEC. 203. ENSURING JURISDICTION OVER THE THEFT OF SENSITIVE IDENTITY INFORMATION.

Section 1030(a)(2)(C) of title 18, United States Code, is amended by striking “if the conduct involved an interstate or foreign communication”.

SEC. 204. MALICIOUS SPYWARE, HACKING AND KEYLOGGERS.

(a) IN GENERAL.—Section 1030 of title 18, United States Code, is amended—

(1) in subsection (a)(5)—

(A) by striking subparagraph (B); and

(B) in subparagraph (A)—

(i) by striking “(A)(i) knowingly” and inserting “(A) knowingly”;;

(ii) by redesignating clauses (ii) and (iii) as subparagraphs (B) and (C), respectively; and

(iii) in subparagraph (C), as so redesignated—

(I) by inserting “and loss” after “damage”; and

(II) by striking “; and” and inserting a period;

(2) in subsection (c)—

(A) in paragraph (2)(A), by striking “(a)(5)(A)(iii).”;;

(B) in paragraph (3)(B), by striking “(a)(5)(A)(iii).”;;

(C) by amending paragraph (4) to read as follows:

“(4)(A) except as provided in subparagraphs (E) and (F), a fine under this title, imprisonment for not more than 5 years, or both, in the case of—

“(i) an offense under subsection (a)(5)(B), which does not occur after a conviction for another offense under this section, if the offense caused (or, in the case of an attempted offense, would, if completed, have caused)—

“(I) loss to 1 or more persons during any 1-year period (and, for purposes of an investigation, prosecution, or other proceeding brought by the United States only, loss resulting from a related course of conduct affecting 1 or more other protected computers) aggregating at least \$5,000 in value;

“(II) the modification or impairment, or potential modification or impairment, of the medical examination, diagnosis, treatment, or care of 1 or more individuals;

“(III) physical injury to any person;

“(IV) a threat to public health or safety;

“(V) damage affecting a computer used by or for an entity of the United States Government in furtherance of the administration of justice, national defense, or national security; or

“(VI) damage affecting 10 or more protected computers during any 1-year period; or

“(ii) an attempt to commit an offense punishable under this subparagraph;

“(B) except as provided in subparagraphs (E) and (F), a fine under this title, imprisonment for not more than 10 years, or both, in the case of—

“(i) an offense under subsection (a)(5)(A), which does not occur after a conviction for another offense under this section, if the offense caused (or, in the case of an attempted offense, would, if completed, have caused) a harm provided in subclauses (I) through (VI) of subparagraph (A)(i); or

“(ii) an attempt to commit an offense punishable under this subparagraph;

“(C) except as provided in subparagraphs (E) and (F), a fine under this title, imprisonment for not more than 20 years, or both, in the case of—

“(i) an offense or an attempt to commit an offense under subparagraphs (A) or (B) of subsection (a)(5) that occurs after a conviction for another offense under this section; or

“(ii) an attempt to commit an offense punishable under this subparagraph;

“(D) a fine under this title, imprisonment for not more than 10 years, or both, in the case of—

“(i) an offense or an attempt to commit an offense under subsection (a)(5)(C) that occurs after a conviction for another offense under this section; or

“(ii) an attempt to commit an offense punishable under this subparagraph;

“(E) if the offender attempts to cause or knowingly or recklessly causes serious bodily injury from conduct in violation of subsection (a)(5)(A), a fine under this title, imprisonment for not more than 20 years, or both;

“(F) if the offender attempts to cause or knowingly or recklessly causes death from conduct in violation of subsection (a)(5)(A), a fine under this title, imprisonment for any term of years or for life, or both; or

“(G) a fine under this title, imprisonment for not more than 1 year, or both, for—

“(i) any other offense under subsection (a)(5); or

“(ii) an attempt to commit an offense punishable under this subparagraph.”; and

(D) by striking paragraph (5); and

(3) in subsection (g)—

(A) in the second sentence, by striking “in clauses (i), (ii), (iii), (iv), or (v) of subsection (a)(5)(B)” and inserting “in subclauses (I), (II), (III), (IV), or (V) of subsection (c)(4)(A)(i)”; and

(B) in the third sentence, by striking “subsection (a)(5)(B)(i)” and inserting “subsection (c)(4)(A)(i)(I)”.
(b) **CONFORMING CHANGES.**—Section 2332(b)(5)(B)(i) of title 18, United States Code, is amended by striking “1030(a)(5)(A)(i) resulting in damage as defined in 1030(a)(5)(B)(ii) through (v)” and inserting “1030(a)(5)(A) resulting in damage as defined in 1030(c)(4)(A)(i)(II) through (VI)”.
SEC. 205. CYBER-EXTORTION.

Section 1030(a)(7) of title 18, United States Code, is amended to read as follows:
“(7) with intent to extort from any person any money or other thing of value, transmits

in interstate or foreign commerce any communication containing any—

“(A) threat to cause damage to a protected computer;

“(B) threat to obtain information from a protected computer without authorization or in excess of authorization or to impair the confidentiality of information obtained from a protected computer without authorization or by exceeding authorized access; or

“(C) demand or request for money or other thing of value in relation to damage to a protected computer, where such damage was caused to facilitate the extortion.”.

SEC. 206. CONSPIRACY TO COMMIT CYBER-CRIMES.

Section 1030(b) of title 18, United States Code, is amended by inserting “conspires to commit or” after “Whoever”.

SEC. 207. USE OF FULL INTERSTATE AND FOREIGN COMMERCE POWER FOR CRIMINAL PENALTIES.

Section 1030(e)(2)(B) of title 18, United States Code, is amended by inserting “or affecting” after “which is used in”.

SEC. 208. FORFEITURE FOR SECTION 1030 VIOLATIONS.

Section 1030 of title 18, United States Code, is amended by adding at the end the following:

“(i)(1) The court, in imposing sentence on any person convicted of a violation of this section, or convicted of conspiracy to violate this section, shall order, in addition to any other sentence imposed and irrespective of any provision of State law, that such person forfeit to the United States—

“(A) such person’s interest in any personal property that was used or intended to be used to commit or to facilitate the commission of such violation; and

“(B) any property, real or personal, constituting or derived from, any proceeds that such person obtained, directly or indirectly, as a result of such violation.

“(2) The criminal forfeiture of property under this subsection, any seizure and disposition thereof, and any judicial proceeding in relation thereto, shall be governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), except subsection (d) of that section.

“(j) For purposes of subsection (i), the following shall be subject to forfeiture to the United States and no property right shall exist in them:

“(1) Any personal property used or intended to be used to commit or to facilitate the commission of any violation of this section, or a conspiracy to violate this section.

“(2) Any property, real or personal, which constitutes or is derived from proceeds traceable to any violation of this section, or a conspiracy to violate this section”.

SEC. 209. DIRECTIVE TO UNITED STATES SENTENCING COMMISSION.

(a) **DIRECTIVE.**—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review its guidelines and policy statements applicable to persons convicted of offenses under sections 1028, 1028A, 1030, 2511, and 2701 of title 18, United States Code, and any other relevant provisions of law, in order to reflect the intent of Congress that such penalties be increased in comparison to those currently provided by such guidelines and policy statements.

(b) **REQUIREMENTS.**—In determining its guidelines and policy statements on the appropriate sentence for the crimes enumerated in subsection (a), the United States Sentencing Commission shall consider the extent to which the guidelines and policy statements may or may not account for the

following factors in order to create an effective deterrent to computer crime and the theft or misuse of personally identifiable data:

(1) The level of sophistication and planning involved in such offense.

(2) Whether such offense was committed for purpose of commercial advantage or private financial benefit.

(3) The potential and actual loss resulting from the offense including—

(A) the value of information obtained from a protected computer, regardless of whether the owner was deprived of use of the information; and

(B) where the information obtained constitutes a trade secret or other proprietary information, the cost the victim incurred developing or compiling the information.

(4) Whether the defendant acted with intent to cause either physical or property harm in committing the offense.

(5) The extent to which the offense violated the privacy rights of individuals.

(6) The effect of the offense upon the operations of an agency of the United States Government, or of a State or local government.

(7) Whether the offense involved a computer used by the United States Government, a State, or a local government in furtherance of national defense, national security, or the administration of justice.

(8) Whether the offense was intended to, or had the effect of, significantly interfering with or disrupting a critical infrastructure.

(9) Whether the offense was intended to, or had the effect of, creating a threat to public health or safety, causing injury to any person, or causing death.

(10) Whether the defendant purposefully involved a juvenile in the commission of the offense.

(11) Whether the defendant’s intent to cause damage or intent to obtain personal information should be disaggregated and considered separately from the other factors set forth in USSG 2B1.1(b)(14).

(12) Whether the term “victim” as used in USSG 2B1.1, should include individuals whose privacy was violated as a result of the offense in addition to individuals who suffered monetary harm as a result of the offense.

(13) Whether the defendant disclosed personal information obtained during the commission of the offense.

(c) **ADDITIONAL REQUIREMENTS.**—In carrying out this section, the United States Sentencing Commission shall—

(1) assure reasonable consistency with other relevant directives and with other sentencing guidelines;

(2) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(3) make any conforming changes to the sentencing guidelines; and

(4) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, July 30, 2008, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.